

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

ERIC WEINER, Individually and on Behalf of  
All Others Similarly Situated,

Plaintiff,

v.

TIVITY HEALTH, INC., *et al.*,

Defendants.

Case No.: 3:17-cv-01469

Chief Judge Crenshaw  
Magistrate Judge Newbern

**NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT AND PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS**

**PLEASE TAKE NOTICE** that on October 4, 2021, at 4:00 p.m. at the United States District Court for the Middle District of Tennessee, Estes Kefauver Federal Building & Courthouse, 801 Broadway, Courtroom A859, Nashville, TN 37203, Class Representative and Lead Plaintiff Oklahoma Firefighters Pension and Retirement System (“Class Representative”) will and hereby does move the Court, the Honorable Chief Judge Waverly D. Crenshaw, for an Order (a) approving the terms and conditions of the proposed Stipulation and Agreement of Settlement, dated June 10, 2021, as fair, reasonable, and adequate for settlement of all claims asserted by the Class against Defendants; (b) approving the proposed Plan of Allocation as a fair and reasonable method to allocate the Net Settlement Fund among Class Members; (c) entering final judgment dismissing the Action with prejudice.

The motion is based upon this notice of motion, the accompanying memorandum of law, the Declaration of Daniel S. Sommers in support of the motion, the exhibits attached thereto, all

other pleadings and matters of record, and such additional evidence or argument as may be presented at or before the hearing.

Defendants have informed Class Representative that they are unopposed to this motion. Pursuant to the Court's Preliminary Approval Order (Doc. No. 162, as amended by Doc. No. 165), the deadline for members of the Class to file objections, if any, is September 20, 2021.

Dated: September 13, 2021

Respectfully submitted,

/s/ Benjamin A. Gastel

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## CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of September, 2021, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filings to the following:

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